

SENATE BILL 316

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2003 Regular Session  
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By: **Senator Lawlah (Joint Committee on the Management of Public Funds)**  
**and Senators Forehand, Haines, and McFadden**

Introduced and read first time: January 31, 2003

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **General Obligation Bonds - Termination of Authorization**

3 FOR the purpose of providing for the termination of authority to spend certain  
4 appropriations for certain capital expenditures after a certain period;  
5 establishing certain exceptions to the termination of authority to spend certain  
6 appropriations; clarifying that the authority to spend certain appropriations  
7 terminates if a certain matching fund requirement is not met; prescribing  
8 certain enabling act language requiring the expenditure or encumbrance of  
9 certain money within a certain period; providing for the automatic termination  
10 of the authorization of State debt under certain circumstances and establishing  
11 certain exceptions; providing for the cancellation of certain State debt  
12 authorizations and the disposition of certain unspent bond proceeds; providing  
13 for the application of this Act; and generally relating to the termination of  
14 authorization of State debt and the disposition of terminated authorizations and  
15 unspent loan proceeds.

16 BY repealing and reenacting, with amendments,  
17 Article - State Finance and Procurement  
18 Section 7-305, 8-117, 8-128, and 8-129  
19 Annotated Code of Maryland  
20 (2001 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - State Finance and Procurement**

24 7-305.

25 (a) In this section, "capital expenditure" includes an expenditure for:

26 (1) acquisition of land, buildings, or equipment; or

27 (2) new construction.

1 (b) At the end of a fiscal year, the unspent part of an appropriation for a  
2 capital expenditure made through the State budget or a supplementary appropriation  
3 act other than an enabling act for a general obligation loan:

4 (1) does not revert to the General Fund; and

5 (2) with the approval of the Board of Public Works, may be carried in a  
6 capital account until it is spent in accordance with subsection (c) of this section or  
7 until the authority to spend the appropriation for a project terminates.

8 (c) Money carried in a capital account under subsection (b) of this section may  
9 be spent only for a capital purpose.

10 (d) Unless otherwise provided by law, the authority to spend the appropriation  
11 for a project terminates:

12 (1) 2 years after the effective date of the appropriation act that  
13 authorizes the project, if:

14 (I) EVIDENCE THAT A REQUIRED MATCHING FUND WILL BE  
15 PROVIDED HAS NOT BEEN PRESENTED TO THE BOARD; OR

16 (II) no part of the project is under contract and the Board has not  
17 [committed the money] ENCUMBERED MONEY for any part of the project; [or]

18 (2) 1 year after the latest of abandonment, completion, or acceptance of  
19 the project; OR

20 (3) EXCEPT TO THE EXTENT THE BOARD HAS ENCUMBERED MONEY FOR  
21 A STATE PROJECT OR PROGRAM AUTHORIZED BY AN APPROPRIATION ACT, 7 YEARS  
22 AFTER THE EFFECTIVE DATE OF THE APPROPRIATION ACT THAT AUTHORIZED THE  
23 PROJECT UNLESS:

24 (I) THE APPROPRIATION ACT PROVIDES OTHERWISE; OR

25 (II) IN AN EMERGENCY, THE BOARD UNANIMOUSLY GRANTS A  
26 TEMPORARY EXCEPTION FOR 1 YEAR.

27 8-117.

28 (a) The General Assembly may authorize the Board to:

29 (1) borrow money for any public purpose; and

30 (2) issue State bonds to evidence the debt.

31 (b) An enabling act shall specify the total principal amount of the debt  
32 authorized by the enabling act.

33 (c) An enabling act may take substantially the following form:

## "A BILL ENTITLED

1 AN ACT concerning

2 Creation of a State Debt - (Name of Project)

3 FOR the purpose of authorizing the creation of a State debt not to exceed \$.....,  
4 (for an enabling act that requires an equal matching fund)/ in the amount  
5 of \$....., (for an enabling act that requires no matching fund or a lesser  
6 matching fund) the proceeds to be used as a grant to ..... (name of grantee)  
7 for certain development or improvement purposes; providing for  
8 disbursement of the loan proceeds, subject to the requirement that the  
9 grantee provide and expend a matching fund (if the enabling act requires a  
10 matching fund); and providing generally for the issuance and sale of bonds  
11 evidencing the loan.  
12

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That:

15 (1) The Board of Public Works may borrow money and incur indebtedness on  
16 behalf of the State of Maryland through a State loan to be known as the ... (name of  
17 project) Loan of ... (year) equal to the lesser of (i) \$... or (ii) the amount of the matching  
18 fund provided in accordance with Section 1(5) below. (For an enabling act that  
19 requires an equal matching fund)/ in the total principal amount of \$..... (for an  
20 enabling act that requires no matching fund or a lesser matching fund). This loan  
21 shall be evidenced by the issuance, sale, and delivery of State general obligation  
22 bonds authorized by a resolution of the Board of Public Works and issued, sold, and  
23 delivered in accordance with §§ 8-117 through 8-124 of the State Finance and  
24 Procurement Article and Article 31, § 22 of the Code.

25 (2) The bonds to evidence this loan or installments of this loan may be sold as  
26 a single issue or may be consolidated and sold as part of a single issue of bonds under  
27 § 8-122 of the State Finance and Procurement Article.

28 (3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer  
29 and first shall be applied to the payment of the expenses of issuing, selling, and  
30 delivering the bonds, unless funds for this purpose are otherwise provided, and then  
31 shall be credited on the books of the Comptroller and expended, on approval by the  
32 Board of Public Works, for the following public purposes, including any applicable  
33 architects' and engineers' fees: as a grant to ..... (name of grantee) (referred to  
34 hereafter in this act as "the grantee") (for an enabling act that requires a matching  
35 fund) for (here state the purpose or purposes to which the proceeds of the bonds are to  
36 be applied).

37 (4) An annual State tax is imposed on all assessable property in the State in  
38 rate and amount sufficient to pay the principal of and interest on the bonds, as and  
39 when due and until paid in full. The principal shall be discharged within 15 years  
40 after the date of issue of the bonds.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 June 1, .... (year)".

3 (d) (1) If an enabling act requires an equal matching fund, the fifth  
4 paragraph is as follows:

5 "(5) Prior to the payment of any funds under the provisions of this Act for the  
6 purposes set forth in Section 1(3) above, the grantee shall provide and expend a  
7 matching fund. No part of the grantee's matching fund may be provided, either  
8 directly or indirectly, from funds of the State, whether appropriated or  
9 unappropriated. No part of the fund may consist of real property, in kind  
10 contributions, or funds expended prior to the effective date of this Act. In case of any  
11 dispute as to the amount of the matching fund or what money or assets may qualify  
12 as matching funds, the Board of Public Works shall determine the matter and the  
13 Board's decision is final. The grantee has until June 1, ... (2 years from the effective  
14 date of the Act), to present evidence satisfactory to the Board of Public Works that a  
15 matching fund will be provided. If satisfactory evidence is presented, the Board shall  
16 certify this fact and the amount of the matching fund to the State Treasurer, and the  
17 proceeds of the loan equal to the amount of the matching fund shall be expended for  
18 the purposes provided in this Act. Any amount of the loan in excess of the amount of  
19 the matching fund certified by the Board of Public Works shall be canceled and be of  
20 no further effect."

21 (2) If an enabling act requires a lesser matching fund, the fifth  
22 paragraph is as follows:

23 "(5) Prior to the payment of any funds under the provisions of this Act for the  
24 purposes set forth in Section 1(3) above, the grantee shall provide and expend a  
25 matching fund of \$ ..., (amount of the matching fund to be provided by the grantee).  
26 No part of the grantee's matching fund may be provided, either directly or indirectly,  
27 from funds of the State, whether appropriated or unappropriated. No part of the fund  
28 may consist of real property, in kind contributions, or funds expended prior to the  
29 effective date of this Act. In case of any dispute as to the amount of the matching fund  
30 or what money or assets may qualify as matching funds, the Board of Public Works  
31 shall determine the matter and the Board's decision is final. The grantee has until  
32 June 1, ... (2 years from the effective date of the Act), to present evidence satisfactory  
33 to the Board of Public Works that a matching fund will be provided. If satisfactory  
34 evidence is presented, the Board shall certify this fact to the State Treasurer, and the  
35 proceeds of the loan shall be expended for the purposes provided in this Act."

36 (E) AN ENABLING ACT MAY ALSO CONTAIN THE FOLLOWING PARAGRAPH:

37 "THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE  
38 BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER  
39 THAN JUNE 1, .... (7 YEARS FROM THE EFFECTIVE DATE OF THE ACT). IF ANY FUNDS  
40 AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE  
41 1, .... (7 YEARS FROM THE EFFECTIVE DATE OF THE ACT), THE AMOUNT OF THE  
42 UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE  
43 OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE

1 AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE  
2 DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT  
3 ARTICLE."

4 [(e)] (F) An enabling act under this section may contain:

5 (1) an additional provision for all or part of the principal of and interest  
6 on the State bonds issued under the enabling act to be paid primarily from sources of  
7 funds other than a State tax on assessable property; and

8 (2) any other additional provision that is appropriate to the purpose of  
9 the enabling act and the nature of State bonds.

10 8-128.

11 (a) If, within 2 years after the date of an authorization of State debt,  
12 EVIDENCE THAT A REQUIRED MATCHING FUND WILL BE PROVIDED HAS NOT BEEN  
13 PRESENTED TO THE BOARD OR no part of the project or program for which the  
14 enabling act authorized the State debt is under contract and the Board has not  
15 [committed] ENCUMBERED money for any part of the project or program, the  
16 authorization terminates unless:

17 (1) the enabling act provides otherwise; or

18 (2) in an emergency, the Board unanimously grants a temporary  
19 exception for a period of 1 year.

20 (B) UNLESS OTHERWISE PROVIDED IN AN ENABLING ACT, AN  
21 AUTHORIZATION OF STATE DEBT FOR A PROJECT OR PROGRAM SHALL TERMINATE  
22 NO LATER THAN 1 YEAR AFTER THE ABANDONMENT, COMPLETION, OR ACCEPTANCE  
23 OF THE PROJECT OR PROGRAM, AS DETERMINED BY THE BOARD.

24 (C) EXCEPT TO THE EXTENT THAT MONEY AUTHORIZED BY AN ENABLING ACT  
25 FOR A STATE PROJECT OR PROGRAM HAS BEEN ENCUMBERED BY THE BOARD, AN  
26 AUTHORIZATION OF STATE DEBT SHALL AUTOMATICALLY TERMINATE 7 YEARS  
27 AFTER THE DATE OF THE AUTHORIZATION, UNLESS:

28 (I) THE ENABLING ACT PROVIDES OTHERWISE; OR

29 (II) IN AN EMERGENCY, THE BOARD UNANIMOUSLY GRANTS A  
30 TEMPORARY EXCEPTION FOR 1 YEAR.

31 (D) IF BONDS HAVE NOT BEEN ISSUED, THE AMOUNT OF ANY UNISSUED  
32 BONDS FROM A TERMINATED AUTHORIZATION SHALL BE CANCELED AND BE OF NO  
33 FURTHER EFFECT.

34 (E) IF BONDS HAVE BEEN ISSUED, THE AMOUNT OF ANY UNSPENT BOND  
35 PROCEEDS FROM A TERMINATED AUTHORIZATION SHALL BE DISPOSED OF AS  
36 PROVIDED IN § 8-129 OF THIS ARTICLE.

1 [(b)] (F) (1) The Board shall enforce the provisions of this section.

2 (2) A FAILURE TO COMPLY WITH OR GIVE EFFECT TO THE PROVISIONS  
3 OF THIS SECTION MAY NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF STATE  
4 DEBT.

5 [(c)] (G) The Board shall submit for publication in the Maryland Register a  
6 notice of any authorization of State debt that has been terminated or extended under  
7 this section; the notice shall include the chapter number and year of enactment of the  
8 enabling act and each amendment to the enabling act.

9 [(d)] (H) A termination or extension under this section may become effective  
10 only after the publication of notice in the Maryland Register.

11 8-129.

12 (a) With the approval of the Board, the Governor shall dispose of unspent  
13 proceeds of an enabling act within 1 year after the [later of abandonment,  
14 completion, or acceptance of a project or program for which an enabling act  
15 authorized State debt] TERMINATION OF THE STATE DEBT AUTHORIZATION UNDER §  
16 8-128 OF THIS SUBTITLE.

17 (b) The Governor shall:

18 (1) use the proceeds to reduce State debt authorizations, as provided in §  
19 8-126(b) through (d) of this subtitle;

20 (2) allocate the proceeds to the Construction Contingency Fund, as  
21 provided in § 3-609 of this article; or

22 (3) order the proceeds to be credited to the Annuity Bond Fund, to pay  
23 the outstanding bonded indebtedness of the State.

24 (c) The Board shall enforce the provisions of this section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
26 State debt authorized by enabling acts enacted on or after June 1, 1997.

27 SECTION 3. AND BE IT FURTHER ENACTED, That the authorization for all  
28 State debt authorized by enabling acts enacted before June 1, 1997 shall be deemed to  
29 automatically terminate in accordance with the provisions of this Act on June 1, 2004,  
30 rather than 7 years after the date of authorization.

31 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 June 1, 2003.